

§Appl. No. 10/688,886
Amdt. dated January 22, 2007
Reply to Office Action of, July 20, 2006

REMARKS

Claims 1-9 remain in this application for examination, claim 10 having been cancelled without prejudice or disclaimer.

Claim Objections:

Claim 10 has been cancelled. The objection is now moot.

Claim Rejections Under 35 U.S.C. §112:

Claim 1 has been objected to as introducing new matter into the disclosure. Applicant has deleted the terminology "other than one" from claim 1, however Applicant respectfully submits that the term "other than one" is clearly evident from the drawings in that the diameter of the collection chamber 14 is clearly greater than the T-piece 13. Therefore the integral multiple must be greater than one. Applicant respectfully submits that with respect to Applicant's disclosure, and claims the term "multiple" clearly means greater than one.

With respect to line 16, Applicant has reinserted the pollution factor of "0.0005" for light pollution locations.

Drawings:

The Examiner has objected to the location of reference numeral 19 in the drawings. Applicant has submitted herewith new replacement sheets which leave the location of the ball float 19 at its location in the original drawings, but which add reference numeral 28 which was missing from the original drawings.

§Appl. No. 10/688,886
Amdt. dated January 22, 2007
Reply to Office Action of, July 20, 2006

Claim Rejections Under 35 U.S.C. §103:

Claims 1, 2, 3, 5, 8 and 9 have been rejected under 35 U.S.C. §103(a) as unpatentable over Wade '551 in view of Wallace '091. Applicant respectfully traverses this rejection.

Considering Wade '835, which is applicant's prior art (APA), it is pointed out that Applicant recites in claim 1 that the collection chamber 14 has a diameter "which is an integral multiple of the diameter of the T-piece inlet (16)". This is clearly not the case with Wade '835 because in Wade '835 the collection chamber 4 appears to have the same diameter as the corresponding T-piece inlet structure 6. Moreover, the pollution factor, which is determined on site, varies between 0.0005 for light pollution locations and 0.002 for heavy pollution locations. There is no consideration at all in Wade '835 of a pollution factor (PF). The pollution factor determines the rainwater carrying capacity (DF) which is measured in liters and effects the selected diameter of the collection chamber 14.

Clearly, applicant's claim 1 and disclosure including Figures 1 and 2, show that the collection chamber 14 has a diameter which is an integral multiple (other than one) of the T-piece inlet 17. Moreover, there is no consideration of utilizing pollution factors (PF) to rainwater carrying capacity, i.e., volume of the collection chamber 14, as a function of pollution factors between 0.0005 and 0.002.

Wallis '091 does not cure these deficiencies of Wade '835 as a reference against Applicants independent claim 1. The passage in Wallis '091 referred to by the Examiner (column 2, line 6 - column 3, line 2) merely suggests that a certain (and apparently arbitrarily chosen) volume of rainwater (in this instance 50 litres) that flows off a roof will contain foreign matter such as dust. The volume of 50 litres is a arbitrary value that is not calculated based on roof area and pollution factor as is the case with Applicant's claims. By choosing an arbitrary volume, Wallis does not consider the area of the roof in question, or whether there are high or low pollution levels on the roof. Instead, Wallis '091 merely suggests that, by diverting 50 litres of rainwater, the remaining volume of water should be free of pollution.

§Appl. No. 10/688,886
Amdt. dated January 22, 2007
Reply to Office Action of, July 20, 2006

Clearly then, the approach of Wallis '091 can lead to one of two equally unattractive situations. If the roof has very low levels of pollution then diverting 50 litres of water is likely to waste clean water. On the other hand, if the roof is heavily polluted, diverting 50 litres is unlikely to be enough water to avoid contamination of the water tank by polluted water. Moreover, Wallis '091 neither discloses nor suggests that there is a need to calculate the exact volume of water to be diverted based on the level of pollution of the roof or the surface area of the roof. Applicant's claimed invention exercise but rather clearly provides an improvement over the combination of Wade '835 and Wallis '091.

Applicant respectfully submits that for the Examiner to dismiss Applicant's limitations defining rainwater carrying capacity (DF) as obvious, without any evidence other than the Examiner's personal opinion, is inappropriate without a declaration and accompanied by supporting evidence.

In view of the foregoing arguments, it is respectfully requested that the rejection of independent claim 1 and claims 2, 3, 5, 8 and 9 depended therefrom be withdrawn as not establishing a *prima facie* case of obviousness.

Claims 4 and 6 and claim 7 have been rejected under 35 U.S.C. §103(a) as unpatentable over Wade '085 and Wallis '091 in view of Sill '613 and has been rejected as unpatentable under 35 U.S.C. §103(a) over APA in view of Wallis, respectively. Applicant respectfully traverses these rejections because whatever else these references teach, they do not cure the deficiencies of Wade (APA) and Wallis as references against Applicant's claimed invention (see arguments regarding claim 1).

The rejection of claim 10 is moot since claim 10 has been cancelled without disclaimer or prejudice.

§Appl. No. 10/688,886
Amdt. dated January 22, 2007
Reply to Office Action of, July 20, 2006

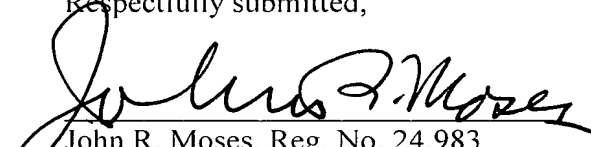
Reply to Response to Arguments:

Applicant respectfully submits that using off the shelf pipe with size in ½ inch increments is not an "integral multiple", i.e., a whole number related to collection chamber diameter. This is concept considered only by Applicant and is obvious only by hindsight. While pollution is a factor in Wade '085, there is absolutely no suggestion or motivation to use a "Pollution factor" as defined by Applicant to determine rainwater carrying capacity (DF) to decide which water volume is collected and which is discarded. It is respectfully submitted that the 35 U.S.C. §103(a) rejection is conclusory, i.e., without evidence, and should be withdrawn.

If the Examiner feels that a personal conference with Applicant's attorneys might expedite prosecution, the Examiner is respectfully requested to telephone the undersigned.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,



John R. Moses, Reg. No. 24,983
Attorney for Applicant

MILLEN, WHITE, ZELANO
& BRANIGAN, P.C.
Arlington Courthouse Plaza I, Suite 1400
2200 Clarendon Boulevard
Arlington, Virginia 22201
Telephone: (703) 243-6333
Facsimile: (703) 243-6410

Attorney Docket No.: CULLE-0014
Date: January 22, 2007